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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/774,391   | 02/10/2004  | Ming-Fang Wang       | WANG3228/EM         | 9763             |
| 23364  | 7590        | 08/09/2005           | EXAMINER            |                  |
| BACON & THOMAS, PLLC<br>625 SLATERS LANE<br>FOURTH FLOOR<br>ALEXANDRIA, VA 22314 |             |                      | BELLINGER, JASON R  |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3617                |                  |

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/774,391

Applicant(s)

WANG, MING-FANG

Examiner

Jason R. Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 23. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because it contains legal phraseology (see below). Correction is required. See MPEP § 608.01(b).

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "comprised", "means", and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The disclosure is objected to because of the following informalities: The second occurrence of reference character 14 following the term "extremities" should be removed in line 12 of page 1, due to the fact that this reference character has previously been indicated as the "crook" element of the invention.

Appropriate correction is required.

### ***Claim Objections***

7. Claims 1-5 are objected to because of the following informalities: In line 3 of claim 1, it is suggested that the period (.) be replaced with the phrase --; the docking structure further comprising: --. In line 4 of claim 1, it is suggested that the phrase "The features of which are that" be removed from the claim. In lines 5-8 of claim 1, it is suggested that the term "the" be removed from the phrase "the said". In line 6 of claim 1, the term "tire" should be removed, as it is not needed.

In line 1 of claim 2, it is suggested that the phrase "As mentioned in Claim 1 of" be removed from the claim and the term "the" be capitalized. In lines 1-2 of claim 2, it is suggested that the phrase "the invention herein" be replaced with the phrase --claim 1, wherein--. In line 3 of claim 2, it is suggested that the term "is" be removed. In line 7 of claim 2, it is suggested that the term "the" be removed from the phrase "the said".

In line 1 of claim 3, it is suggested that the phrase "As mentioned in Claim 2 of" be removed from the claim and the term "the" be capitalized. In lines 1-2 of claim 3, it is suggested that the phrase "the invention herein" be replaced with the phrase --claim 2, wherein—. In lines 2-4, it is suggested that the term "the" be removed from the phrase "the said".

In line 1 of claim 4, it is suggested that the phrase "As mentioned in Claim 3 of" be removed from the claim and the term "the" be capitalized. In lines 1-2 of claim 4, it is suggested that the phrase "the invention herein" be replaced with the phrase --claim 3, wherein—. In lines 2-3, it is suggested that the term "the" be removed from the phrase "the said".

In line 1 of claim 5, it is suggested that the phrase "As mentioned in Claim 4 of" be removed from the claim and the term "the" be capitalized. In lines 1-2 of claim 5, it is suggested that the phrase "the invention herein" be replaced with the phrase --claim 3, wherein—. In lines 2-4, it is suggested that the term "the" be removed from the phrase "the said".

These suggestions are to correct minor grammatical errors, and to clarify the claims with regard to the rejection set forth in paragraphs 4-5 below. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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**9.** Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite due to the fact that it is unclear what type of "outward force" acts on the anchoring mounts, and it is further indefinite how those anchoring mounted are displaced "outward". No directional indicators (such as axial, radial, etc.) have been provided to clearly describe the invention.

Claim 2 is indefinite due to the fact that it is unclear what element of the invention is being referred to by the phrase "the other end" to which the support seat is attached and bent. The claim is further indefinite due to the fact that it is unclear what element of the invention is being referred to by the term "thereafter" in line 6. The claim is further indefinite due to the fact that it is unclear what element of the invention is located a "suitable distance apart" from either the check seats or the element referred to as "thereafter".

Claim 5 is indefinite due to the fact that it is unclear what "two sides" are being referred to in line 3 of the claim. No directional indicator (such as axial, radial, etc.) has been provided.

**10.** The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shryock.

Shryock shows a wheel cover having an extensional hubcap docking structure including an anchoring mount 101 disposed on the back surface of a hubcap, and a clip component 111 coupled onto the anchoring mount 101. An elastic component (107 & 109) is situated between the hubcap anchoring mount 101 and the clip component 111 to allow the hubcap to be retained on the wheel when subjected to an outward puling force.

***Double Patenting***

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).



14. Claims 1-2, and 3-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, and 3-4, respectively of U.S. Patent Application No. 2004/0251733 A1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims contain all of the limitations of the published claims. Furthermore, the instant claims are broader in scope than the published claims. Therefore, it is obvious that the Applicant is claiming the same invention in different and broader terms.

It should be noted that co-pending application 10/459,578, which has been published as 2004/0251733 A1, will be printed as US Patent 6,932,434 as of 23 August 2005.

#### ***Allowable Subject Matter***

15. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show wheel covers having elastic components interacting with the clip members to allow retention of the hubcap on a wheel during operation. For example, Beisch shows a hubcap of the type described above.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger  
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